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LUC-469/Dombkowski 11-16

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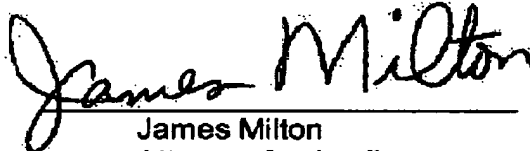
Patent Application

Inventor(s): Kevin E. Dombkowski et al.
Case No.: LUC-469/Dombkowski 11-16
Serial No.: 10/803,718
Filing Date: 3/18/2004
Title: AUTHENTICATION OF COMPUTING DEVICE THROUGH EMPLOYMENT
OF DETERMINATION THAT CURRENT LOCATION OF
AUTHENTICATION DEVICE MATCHES INITIAL LOCATION

Examiner Fikremariam A. Yalew
Art Unit: 2436

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being sent via facsimile transmission to Commissioner for Patents, Mail Stop Amendment, Group Art Unit 2436, Attention: Examiner Fikremariam A. Yalew, P.O. Box 1450, Alexandria, VA 22313-1450, at fax number (571) 273-8300, on May 1, 2009.



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Date of Signature: May 1, 2009

Commissioner for Patents
Mail Stop Amendment
Group Art Unit 2436
Attention: Examiner Fikremariam A. Yalew
P.O. Box 1450
Alexandria, VA 22313-1450
Fax Number (571) 273-8300

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicants request review of the final rejection of this application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated on the attached sheets.

REMARKS

Claims 1-27 are pending in the application. Claims 1-27 were rejected under 35 U.S.C. § 103 (a). Claims 1, 14 and 22 were rejected under 35 U.S.C. § 112.

Rejection Under 35 U.S.C. § 112

Claims 1, 14 and 22 were rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement.

Applicants respectively traverse this ground of rejection for the following reasons. Applicants' claim 1 recites,

"wherein one or more private keys employable for encryption and/or decryption of information are erased via an automatic cutoff of power upon an attempt to move the authentication device;"

As background, page 12, lines 1-15 of applicants' specification states,

"Upon an attempt to move or open the authentication device 104, the power distribution component 604 may cut off power to the private key module 606 to erase the one or more private keys. As a security measure, the power distribution component 604 may cut the power from the private key module 606 to disable the authentication device 104 from processing subsequent requests for authentication."

In other words, the power distribution component is an automated/mechanized means for cutting off power to the private key module 606 to erase the one or more private keys. Power to the private keys is cut off by the power distribution component upon an attempt to move or open the authentication device. As known by those skilled in the art, automatic, as used in applicants' claims 1, 14 and 22, means "acting or done as if by machine". Thus, the private keys are erased via an automatic, i.e., power distribution component, cutoff of power upon an attempt to move the authentication device. This differs from the cited prior art, Niimura, which discloses that main controller 110 erases key data if main controller 110 determines that the user has turned off the power supply, as stated in column 3, lines 59-65.

Although claims 1, 14 and 22 employ a term, i.e., automatic, that does not appear in the specification, MPEP 1302.01 states that the exact terms do not have to be

used to satisfy the written description requirements of the first paragraph of 35 U.S.C. 112. 37 CFR 1.121(e) merely requires substantial correspondence between the language of the claims and the language of the specification.

In view of the foregoing, applicants assert that the rejection under 35 U.S.C. § 112, first paragraph has been overcome.

Rejection Under 35 U.S.C. § 103 (a)

Rejection Under Karaoguz, MacKenzie, Niimura and Williams

Claims 1-6, 8-18 and 20-27 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over U. S. Patent Application Number 2004/0059914 issued to Karaoguz dated March 25, 2004 in view of various references.

Applicants respectively traverse this ground of rejection for the following reasons.

First, applicants' claim 1 recites,

"wherein one or more private keys employable for encryption and/or decryption of information are erased via an automatic cutoff of power upon an attempt to move the authentication device."

As stated in the Final Office Action, the Examiner agrees that Karaoguz, MacKenzie and Niimura do not teach or suggest this limitation.

Applicants agree that Williams discloses a power supply unit with an automatic cut-out. However, Williams' automatic cut-out is triggered to protect the power supply unit from damage caused by excess power drain, i.e., a fail-safe or back-up protection facility for the power supply unit, rather than to erase private keys upon an attempt to move the authentication device as required by applicants' claim 1. See column 4, lines 21-30. Thus, Williams, similar to Karaoguz, MacKenzie and Niimura, is missing the "wherein one or more private keys employable for encryption and/or decryption of information are erased via an automatic cutoff of power upon an attempt to move the authentication device" elements, as recited in applicants' claim 1.

Second, the Final Office Action suggests that there is a motivation to combine Karaoguz with Williams —namely, to yield predictable results. However, applicants respectfully submit that the teachings in Karaoguz and Williams provide no basis to conclude that a person of ordinary skill in the art would use Williams' techniques to

facilitate Karaoguz's arrangement to arrive at the subject matter of applicants' claim 1, so the combination is improper.

Specifically, each reference addresses a problem so different from the one addressed by the other reference that the respective teachings provide no motivation for the person of ordinary skill to combine them.

More specifically, Karaoguz addresses the problem of authenticating and confirming an identity of a user based on the distance – range - location information and/or the geographic position location information of the user's wireless device. In Karaoguz, the problem is addressed by receiving a request message from a sender to access a resource provided through a wireless network; determining first signal-generated location information of the sender; identifying the sender using the first signal-generated location information; confirming an identity of the sender; and authorizing access for the sender to access the resource.

By contrast, the problem being addressed by Williams is the need to allow power supplies in computers to better cope with variations in power demand. In Williams, the problem is addressed by a power supply unit operable to provide power to at least one electronic component, said power supply unit having a detector which is responsive to an increase in level of power output from the power supply unit beyond a predetermined limit to initiate transmission of an alert signal to the at least one electronic component, wherein said alert signal is set to one of a plurality of values, and wherein said plurality of alert values comprises two or more values each representing a respective alert condition and one value representing a normal condition.

Also, each reference addresses devices so different from the devices addressed by the other reference that the respective teachings provide no motivation for the person of ordinary skill to combine them.

Karaoguz addresses wireless communication devices. By contrast, Williams addresses power supplies in computers, but does not disclose wireless devices.

Accordingly, one of ordinary skill in the art would not be motivated to combine a solution that provides 1) receiving a request message from a sender to access a resource provided through a wireless network; determining first signal-generated location information of the sender; identifying the sender using the first signal-generated

location information; confirming an identity of the sender; and authorizing access for the sender to access the resource, with 2) a power supply unit operable to provide power to at least one electronic component, said power supply unit having a detector which is responsive to an increase in level of power output from the power supply unit beyond a predetermined limit to initiate transmission of an alert signal to the at least one electronic component.

Furthermore, Karaoguz makes no mention of a power supply unit with an automatic cut-out nor is there a teaching in Karaoguz to suggest that there would be an improvement in Karaoguz's technique with a power supply unit with an automatic cut-out. Since the teachings of Karaoguz adequately address the problem of authenticating and confirming an identity of a user based on the distance - range - location information and/or the geographic position location information of the user's wireless device, there is no motivation to combine Karaoguz with Williams' teachings. Given that Karaoguz's technique does not suffer from the problems that Williams addresses, one of ordinary skill in the art would not be led to try to improve Karaoguz's technique with Williams' teachings.

Thus, one of ordinary skill in the art would not be motivated to modify Karaoguz with Williams' teachings. Consequently, applicants respectfully submit that the Examiner is relying on the use of impermissible hindsight in an attempt to reconstruct applicants' teachings by combining Karaoguz and Williams. Accordingly, applicants submit that the combination and resultant rejection are improper.

Therefore the proposed combination of Karaoguz, MacKenzie, Nilmura and Williams does not teach or suggest all of the limitations in applicants' claim 1, and therefore claim 1 is allowable over the proposed combination. Since claims 2-13 and 23-27 depend from allowable claim 1, these claims are also allowable.

Independent claims 14 and 22 each have a limitation similar to that of independent claim 1, which was shown is not taught by the proposed combination. For example, claims 14 and 22 recite, "wherein one or more private keys employable for encryption and/or decryption of information are erased via an automatic cutoff of power upon an attempt to move the authentication device". The proposed combination does not teach or suggest this limitation for the above-mentioned reasons. Therefore, claims

14 and 22 are likewise allowable over the proposed combination. Since claims 15-21 depend from claim 14, these dependent claims are also allowable over the proposed combination.

Rejection Under Karaoguz, MacKenzie, Niimura, Williams and Wheeler

Claims 7 and 19 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Karaoguz in view various references.

Applicants respectfully traverse this ground of rejection for the following reasons.

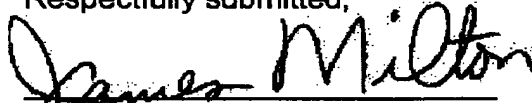
This rejection is based on the rejection under Karaoguz, MacKenzie, Niimura and Williams being proper. As that ground of rejection has been overcome, and none of the cited references teach or suggest "wherein one or more private keys employable for encryption and/or decryption of information are erased via an automatic cutoff of power upon an attempt to move the authentication device" as recited in applicants' independent claims 1, 14 and 22, the proposed combination does not supply this missing element. Thus, this combination does not make obvious any of applicants' claims, all of which require the aforesaid limitation.

Conclusion

In view of the above remarks, withdrawal of the rejections and/or reversal of the rejections of all claims pending is respectfully requested.

If a telephone conference would be of assistance in advancing the prosecution of this application, feel free to call applicants' attorney.

Respectfully submitted,



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Dated: May 1, 2009

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